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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,056	03/25/1999	DARRYL P. BLACK	10360/014001	1593

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EXAMINER

FLEURANTIN, JEAN B

ART UNIT

PAPER NUMBER

2172

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/276,056

Applicant(s)

BLACK ET AL.

Examiner

Jean B Fleurantin

Art Unit

2172

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.Claim(s) objected to: NONE.Claim(s) rejected: 1-23.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
ALFORD KINDRED  
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: In response to applicant's argument on pages 2, "Claim 1-23 are rejected under 35 USC 103 as being unpatentable over Iddon et al. in view of Bruins et al. Applicant respectfully traverss For the Patent Office to establish prima facie obviousness ..." a prima facie case of obvious of is established when the teachings from th prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. Once such a case is established, it is incumbent upon appellatant to go forward with objective evidence of unobviousness. In re Fielder, 471 F.2d 640, 176 USPQ 300 (CCPA 1973).

In response to applicant's argument on page 2, that "the combination of references does not teach or suggest a second flow aggregation process" It is respectfully submitted that Iddon and Bruins references disclose the claimed limitations as follow: Iddon teaches "a method of transmitting accounting records in an accounting system that produces information pertaining network traffic flow" as receives and transmits packets in similar fashion to the network nodes, (see col. 9, lines 3-4), comprising "collecting data from a network device by a data collector associated with the network device and producing accounting records from the data" as a sufficient number of network nodes connected throughout a computer network adapted to collect network data, (see col. 3, lines 64-66); "storing in the data collector the accounting records" as network nodes connected throughout a computer network adapted to collect network data, (see col. 3, lines 64-66); further, in column 6, lines 16-19, Iddon teaches update routines are stored in the data collection module, and storing routines in the data collection module the network data engine remains independent of these routines. Iddon does not explicitly indicate transmitting the accounting records to the flow aggregation process; and the flow aggregation process that the flow aggregation process received the accounting records before discarding the accounting records sent to the flow aggregation process. However, Bruins indicates based on the aggregated message flow information, accounting information pertaining to network usage for us in charging users of the network for their use, (see col. 7, lines 44-47); further, in columns 1 and 5, lines 21-35 and 12-15, Bruins teaches information could also be aggregated by a variety of categories for the entire network thereof, for groups of sources or destinations, or for particular types of packets such as accounting information; and the display 260 application can record accounting information which can be used to charge users of the network 100 for their use. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combined teachings of Iddon and Bruins with transmitting the accounting records to the flow aggregation process; and the flow aggregation process that the flow aggregation process received the accounting records before discarding the accounting records sent to the flow aggregation process. Such modification would allow the teachings of Iddon and Bruins to improve the accuracy and the reliability of the fault tolerance for network accounting architecture, and to provide a method and system for monitoring information about network usage, (see col. 2, lines 6-7), thereby providing a method and system for exporting and using data relating to flows in a flow switching network and responsive to message flow patterns, (see col. 2, lines 17-19). Examiner maintains the rejection in the last Office Action.